

1 **Rule 5. Service and filing of pleadings and other papers.**

2 **(a) When service is required.**

3 **(1) Papers that must be served.** Except as otherwise provided in these rules or as
4 otherwise directed by the court, the following papers must be served on every party:

5 (A) a judgment;

6 (B) an order that states it must be served;

7 (C) a pleading after the original complaint;

8 (D) a paper relating to disclosure or discovery;

9 (E) a paper filed with the court other than a motion that may be heard ex parte;
10 and

11 (F) a written notice, appearance, demand, offer of judgment, or similar paper.

12 **(2) Serving parties in default.** No service is required on a party who is in default
13 except that:

14 (A) a party in default must be served as ordered by the court;

15 (B) a party in default for any reason other than for failure to appear must be
16 served as provided in paragraph (a)(1);

17 (C) a party in default for any reason must be served with notice of any hearing to
18 determine the amount of damages to be entered against the defaulting party;

19 (D) a party in default for any reason must be served with notice of entry of
20 judgment under Rule [58A\(g\)](#); and

21 (E) a party in default for any reason must be served under Rule [4](#) with pleadings
22 asserting new or additional claims for relief against the party.

23 **(3) Service in actions begun by seizing property.** If an action is begun by seizing
24 property and no person is or need be named as defendant, any service required

25 before the filing of an answer, claim or appearance must be made upon the person
26 who had custody or possession of the property when it was seized.

27 **(b) How service is made.**

28 **(1) Whom to serve.** If a party is represented by an attorney, a paper served under
29 this rule must be served upon the attorney unless the court orders service upon the
30 party. Service must be made upon the attorney and the party if:

31 (A) an attorney has filed a Notice of Limited Appearance under Rule 75 and the
32 papers being served relate to a matter within the scope of the Notice; or

33 (B) a final judgment has been entered in the action and more than 90 days has
34 elapsed from the date a paper was last served on the attorney.

35 **(2) When to serve.** If a hearing is scheduled 7 days or less from the date of service, a
36 party must serve a paper related to the hearing by the method most likely to be
37 promptly received. Otherwise, a paper that is filed with the court must be served
38 before or on the same day that it is filed.

39 **(3) Methods of service.** A paper is served under this rule by using one or more of
40 the methods in the following paragraphs.:

41 (A) Electronic filing. ~~except~~ Except in the juvenile court, a paper is served by
42 submitting it for electronic filing, or the court submitting it to the electronic filing
43 service provider, if the person being served has an electronic filing account.;

44 (B) Email. A paper not electronically served under paragraph (b)(3)(A) is served
45 by emailing it to (i) the most recent email address provided by the person to the
46 court and other parties under Rule 10(a)(3) or Rule 76, or (ii) ~~to~~ the email address
47 on file with the Utah State Bar. If email service to the email address is returned as
48 undeliverable, service must then be made by another method in accordance with
49 paragraph (b)(3)(C). Service is complete upon the attempted email service for
50 purposes of the sender meeting any time period, provided service by another

51 method is made within 3 days following receipt of an undeliverable email notice,
52 excluding Saturday, Sunday, or legal holidays.

53 (C) Mail and other methods. This paragraph applies if the person required to
54 serve or be served with a paper has notified the court and the parties that the
55 person does not have the ability to serve and receive documents by email or an
56 email is returned as undeliverable. This paragraph also applies if the person to
57 be served has not provided an email address to the court under Rule 10. A paper
58 may be served under this paragraph by:

59 (i) mailing it to the ~~person's~~ last known mailing address provided by the
60 person to the court and other parties under Rule 10(a)(3) or Rule 76;

61 ~~(D)~~(ii) handing it to the person;

62 ~~(E)~~(iii) leaving it at the person's office with a person in charge or, if no one is
63 in charge, leaving it in a receptacle intended for receiving deliveries or in a
64 conspicuous place;

65 ~~(F)~~(iv) leaving it at the person's dwelling house or usual place of abode with a
66 person of suitable age and discretion who resides there; or

67 ~~(G)~~(v) any other method agreed to in writing by the parties.

68 (4) **When service is effective.** Service by mail or electronic means is complete upon
69 sending.

70 (5) **Who serves.** Unless otherwise directed by the court or these rules:

71 (A) every paper required to be served must be served by the party preparing it;
72 and

73 (B) every paper prepared by the court will be served by the court.

74 (c) **Serving numerous defendants.** If an action involves an unusually large number of
75 defendants, the court, upon motion or its own initiative, may order that:

76 (1) a defendant's pleadings and replies to them do not need to be served on the other
77 defendants;

78 (2) any cross-claim, counterclaim avoidance or affirmative defense in a defendant's
79 pleadings and replies to them are deemed denied or avoided by all other parties;

80 (3) filing a defendant's pleadings and serving them on the plaintiff constitutes notice
81 of them to all other parties; and

82 (4) a copy of the order must be served upon the parties.

83 **(d) Certificate of service.** No certificate of service is required when a paper is served by
84 filing it with the court's electronic-filing system under paragraph (b)(3)(A). When a
85 paper that is required to be served is served by other means:

86 (1) if the paper is filed, a certificate of service showing the date and manner of
87 service must be filed with it or within a reasonable time after service; and

88 (2) if the paper is not filed, a certificate of service need not be filed unless filing is
89 required by rule or court order.

90 ~~A paper required by this rule to be served, including electronically filed papers, must~~
91 ~~include a signed certificate of service showing the name of the document served, the~~
92 ~~date and manner of service and on whom it was served. Except in the juvenile court,~~
93 ~~this paragraph does not apply to papers required to be served under paragraph~~
94 ~~(b)(5)(B) when service to all parties is made under paragraph (b)(3)(A).~~

95 **(e) Filing.** Except as provided in Rule 7(j) and Rule 26(f), all papers after the complaint
96 that are required to be served must be filed with the court. Parties with an electronic
97 filing account must file a paper electronically. A party without an electronic filing
98 account may file a paper by delivering it to the clerk of the court or to a judge of the
99 court. Filing is complete upon the earliest of acceptance by the electronic filing system,
100 the clerk of court or the judge.

101 **(f) Filing an affidavit or declaration.** If a person files an affidavit or declaration, the
102 filer may:

103 (1) electronically file the original affidavit with a notary acknowledgment as
104 provided by Utah Code Section [46-1-16\(7\)](#);

105 (2) electronically file a scanned image of the affidavit or declaration;

106 (3) electronically file the affidavit or declaration with a conformed signature; or

107 (4) if the filer does not have an electronic filing account, present the original affidavit
108 or declaration to the clerk of the court, and the clerk will electronically file a scanned
109 image and return the original to the filer.

110 The filer must keep an original affidavit or declaration of anyone other than the filer
111 safe and available for inspection upon request until the action is concluded, including
112 any appeal or until the time in which to appeal has expired.

113 | [Effective January 1, 2022](#)

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115 **Advisory Committee Notes**

116 *Note adopted 2015*

117 Under paragraph (b)(3)(A), electronically filing a document has the effect of serving the
118 document on lawyers who have an e-filing account. (Lawyers representing parties in
119 the district court are required to have an account and electronically file documents.
120 Code of Judicial Administration Rule 4-503.) The 2015 amendment excepts from this
121 provision documents electronically filed in juvenile court.

122 Although electronic filing in the juvenile court presents to the parties the documents
123 that have been filed, the juvenile court e-filing application (CARE), unlike that in the
124 district court, does not deliver an email alerting the party to that fact. The Board of
125 Juvenile Court Judges and the Advisory Committee on the Rules of Juvenile Procedure
126 believe this difference renders electronic filing alone insufficient notice of a document

127 having been filed. So in the juvenile court, a party electronically filing a document must
128 serve that document by one of the other permitted methods.